

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 1 – SB 39**

January 18, 2017

**SUMMARY OF BILL:** Enhances the offense of destroying or tampering with governmental records from a class A misdemeanor to a class E felony.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – \$105,500/Incarceration\***

Assumptions:

- Tennessee Code Annotated § 39-16-504 prohibits any person from knowingly making a false entry in, or false alteration of, a governmental record; making, presenting, or using any false record with the knowledge and intent that it be taken as a genuine governmental record; or intentionally and unlawfully destroying, concealing, removing or otherwise impairing the verity, legibility, or availability of a governmental record.
- Destroying or tampering with a governmental record is a class A misdemeanor. The proposed legislation enhances this offense to a class E felony.
- Statistics from the Administrative Office of the Courts (AOC) indicate an average of 3.25 convictions each year over the last five years under Tenn. Code Ann. § 39-16-504. These statistics represent convictions at the state court level. It is assumed that only 10 percent of misdemeanor convictions are at the state court level. It is assumed that there are a total of 32.5 convictions (3.25 x 10) per year for violations of Tenn. Code Ann. § 39-16-504.
- Statistics from the Department of Correction (DOC) show a total of 548.7 admissions each year over the last 10 years under title 39, chapter 16. However, 93 percent (510 admissions) of these admissions are attributable to six of the 30 offenses that account of DOC admissions. These admissions are also related to other criminal conduct (e.g., tampering with evidence, evading arrest, perjury, failure to appear).
- Statistics from the AOC show an average of 2,862 convictions under title 39, chapter 16. Only 19.2 percent (548.7 admissions / 2,862 convictions) of convictions under title 39, chapter 16 result in admission into DOC custody.
- Destroying or tampering with a governmental record is a nonviolent offense for which most defendants will be eligible for probation under Tenn. Code Ann. § 40-35-313. It is assumed that most defendants will receive probation and not go into custody of the DOC.

- It is assumed that 10 percent of the estimated 32.5 convictions, or 3.25 convictions, for destroying or tampering with a governmental record each year will result in admission into DOC custody.
- According to the DOC, the average operating cost per offender per day for calendar year 2017 is \$68.75.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect the fiscal impact of this legislation.
- The average time served for a class E felony is 1.4 years.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on three offenders serving 1.4 years (511.35 days) at a cost of \$35,155 (\$68.75 x 511.35 days) per offender. The cost for three offenders is \$105,465 (\$35,155 x 3).
- The proposed legislation only creates 33 new felony cases each year, or approximately one felony case per judicial district. It is assumed that the district attorneys, the public defenders, and the courts can accommodate the impact to their caseloads within their existing resources.
- The proposed legislation also reduces the misdemeanor case load by 33 cases, or one case for every three counties. The district attorneys will handle the cases, regardless of classification. It is assumed that reducing general sessions courts' caseloads by 33 cases will not significantly decrease local expenditures.

*\*Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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